

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CODY FOSTER & CO., INC., a Nebraska
corporation;

Plaintiff,

vs.

URBAN OUTFITTERS, INC., a
Pennsylvania Corporation; et. al;

Defendants.

8:14CV80

ORDER

At the defendants' request, a hearing was held today on the plaintiff's motion to quash, ([Filing No. 35](#)). As explained during the call, the motion will be denied on both procedural and substantive grounds. Specifically, the plaintiff failed to serve written objections to the Rule 45 subpoenas on the defendants, and failed to meet and confer regarding those objections, prior to filing the motion to quash. See NECivR 45.1; [Knapp v. Novartis Consumer Health, Inc., No. 4:14CV3007, 2014 WL 7082089, at *1 \(D. Neb. Dec. 12, 2014\)](#); [Sampson v. Schenck, No. 8:07CV155, 2013 WL 1914805 \(D. Neb. May 8, 2013\)](#). And as to the objections raised in its motion, the plaintiff lacks standing to raise those objections. [Washington v. Thurgood Marshall Academy, 230 F.R.D. 18, 21 \(D.D.C. 2005\)](#) ("A party generally lacks standing to challenge a subpoena issued to a third party absent a claim of privilege, proprietary interest, or personal interest in the subpoenaed matter.") "A motion to quash, or for a protective order, should generally be made by the person from whom the documents or things are requested." [Id.](#) (citing 9A Charles Alan Wright & Arthur R. Miller, [Federal Practice and Procedure § 2459 \(2d ed. 1995\)](#)).

Accordingly,

IT IS ORDERED:

- 1) The plaintiff's motion to quash, ([Filing No. 35](#)), is denied.

2) As to other ongoing discovery disputes referenced during today's call, the plaintiff shall respond to the defendants' meet and confer letter by no later than January 20, 2015. If the parties cannot resolve those disputes, on or before January 27, 2015:

- a. The parties shall submit a summary, not to exceed ten double-spaced pages in length, which outlines the disputed discovery requests and the objections that are being asserted. The parties may submit separate summaries, but a joint summary is preferred.
- b. The defendants shall contact my chambers to set a conference call to discuss the parties' discovery disputes.

January 5, 2015.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge